

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
SEPTEMBER 23, 2002
HUGHES AUDITORIUM
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:45 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Ken Kearsley, Councilmembers Sharon Barovsky, Joan House and Andrew Stern.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Julia James, Administrative Services Director; Drew Purvis, Planning Director; and Lisa Pope, City Clerk

FLAG SALUTE

Craig George led the Pledge of Allegiance.

CLOSED SESSION REPORT

City Attorney Hogin reported that the Council met in closed session at 5:30 p.m. to discuss the following items:

Existing litigation per Government Code Section 54956.9 (a):

1. Antario v. City of Malibu
Los Angeles County Superior Court Case No. BC253990
2. Brown v. City of Malibu
Ventura County Superior Court Case No. CIV212554
3. Cher v. City of Malibu
Los Angeles County Superior Court Case No. SS10632
4. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
5. City of Malibu v. California Coastal Commission
Los Angeles County Superior Court Case No. BC230410
6. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)
Ventura County Superior Court Case No. CIV193900

7. Coffman v. City of Malibu
Los Angeles County Superior Court Case No. BC246067
8. Darian v. Accent Builders et al.
United States District Court Case No. 00-10255-FMC(JWJ)
9. Keach v. City of Malibu
Los Angeles County Superior Court Case No. SS009723
10. Levenson v. City of Malibu et al.
Los Angeles County Superior Court Case No. SC059037
11. Marine Forest Society v. California Coastal Commission Case No. 00AS00567
(Sacramento Superior Court) (Amicus)
12. Nese v. City of Malibu
Los Angeles County Superior Court Case No. SC070775
13. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
14. Sierra Club v. City of Malibu
Los Angeles County Superior Court Case No. BS064912
15. Silver v. City of Malibu
Los Angeles County Superior Court Case No. BC255025
16. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
17. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu
Los Angeles County Superior Court Case No. BC258432
18. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
19. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794

Initiation of Litigation pursuant to Government Code Section 54956.9(c):

20. Number of cases: 2

Personnel matters pursuant to Government Code Section 54957:

21. Public Employee Performance Evaluation
Title: City Treasurer

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

22. Property located at: 3731 Las Flores Canyon Road
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Jack Willis
23. Property located at: County Yards at 3637 Winter Canyon
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Los Angeles County Administrative Officer or designee

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

24. Number of Cases: 1

The City Attorney stated that the Council discussed several but not all items on the posted agenda and took no reportable action.

APPROVAL OF AGENDA

MOTION Mayor Pro Tem Kearsley moved and Councilmember House seconded a motion to approve the agenda. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the amended agenda for the meeting was posted on September 20, 2002.

ITEM 1 CEREMONIAL/PRESENTATIONS

- A. Proclamation declaring September 23 – September 29, 2002 as Third Annual Racial Equality Week

Mayor Jennings read the proclamation declaring September 23 – September 20, 2002 as Third Annual Racial Equality Week.

MOTION Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to approve the proclamation. The motion carried unanimously.

- B. Presentation of City tile to Craig George for 7 years of service to the City of Malibu

Building Official Peterson discussed the accomplishments of Craig George and commended him on his service to the City. Mayor Jennings presented a city tile to Craig George for his 7 years of service to the City. Mr. George thanked the Council and City for the opportunity to serve the City.

C. Introduction of Assistant Fire Chief Paul Schuster and Presentation on Wildfire Preparedness

By acclamation, this item was continued to October 14, 2002.

ITEM 2

A. PUBLIC COMMENTS

Mark Olson, Southern California Edison, provided an update on the energy crisis. He encouraged the City to continue its efforts towards energy efficiency. He discussed the Chamber of Commerce Environmental Committee.

B. COUNCIL COMMENTS

Councilmember Stern congratulated Craig George on his service to the City. He discussed a letter from Big Rock Mesa HOA regarding a left turn. City Manager Lichtig indicated the Acting Public Works Director / City Engineer had received the letter and would be evaluating the matter. Councilmember Stern acknowledged the efforts of Ed Lipnick for his service on the Planning Commission.

Councilmember Barovsky commended Craig George for his work for the City. She suggested concerns of Big Rock Association be forwarded to the Public Safety Commission. City Manager Lichtig explained that the PCH turn study would be going back to the Public Safety Commission and the Big Rock Mesa concerns would be addressed.

Councilmember House congratulated Mr. George for his service to the City. She discussed the service of Ed Lipnick and suggested the Council approve a tile be presented to Mr. Lipnick. She asked if the City received sales tax from the Zuma Beach concessionaires. Administrative Services Director James stated she would provide information to the Council regarding sales tax. Councilmember House requested a special meeting between the City Council, Planning Commission and staff to discuss the LCP. She thanked Mark Olson and expressed interest in conducting an interview on the government channel.

Mayor Pro Tem Kearsley concurred with Councilmember House regarding a joint City Council / Planning Commission meeting. He discussed the Santa Ana wind conditions

and encouraged fire preparedness. He commended Craig George for his service to the City. He indicated support for a left hand turn pocket on PCH at Big Rock.

Mayor Jennings congratulated Craig George and thanked Ed Lipnick for his service on the Planning Commission. He discussed the need to educate the Planning Commission and Council on the LCP.

ITEM 3 CONSENT CALENDAR

Councilmember House pulled Item Nos. 3.B.5. and 3.B.6.

MOTION Councilmember Barovsky moved and Councilmember Stern seconded a motion to approve the Consent Calendar with the exception of Item Nos. 3.B.5. and 3.B.6. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Staff recommendation: 1) To allow and approve warrant demand numbers 20113 through 20207 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 269 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$695,060.53 including ADP payroll voucher numbers 22058996-9019 and 22299090-9107.

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the Landslide Road Failure at Corral Canyon

Staff recommendation: Re-affirm the State of Local Emergency by minute order.

4. Approval of Minutes

Staff recommendation: Approve City Council meeting minutes for the regular meeting held on August 12, 2002.

7. Resolution Supporting Proposition 46, Housing and Emergency Shelter Trust Fund Act of 2002

Staff recommendation: Adopt Resolution No. 02-43 supporting the November 5, 2002 Election Proposition 46.

8. Legal Services Agreement for Trial Counsel

Staff recommendation: Approve legal services agreement with Towle,

Denison, Smith & Tavera, LLP and authorize Mayor to execute agreement.

9. Legal Defense Fund

Staff recommendation: Approve creation of legal defense fund and direct staff to administer.

The following items were pulled from the Consent Calendar for individual consideration:

5. Pavement Management System: Supplemental Agreement for Measurement of Pavement Distresses

Staff recommendation: Authorize the City Manager to execute a supplemental agreement with Nichols Consulting Engineers, Chtd. of Huntington Beach, California in the amount of \$5,544 for direct management of pavement distresses on streets in the City's Pavement Management System on behalf of the City.

Councilmember House asked if the contract amendment would draw from the general fund reserve. City Manager Lichtig explained that the matter was included in the budget and would not draw from the general fund reserve.

MOTION

Councilmember House moved and Councilmember Stern seconded a motion to authorize the City Manager to execute a supplemental agreement with Nichols Consulting Engineers, Chtd. of Huntington Beach, California in the amount of \$5,544 for direct management of pavement distresses on streets in the City's Pavement Management System on behalf of the City. The motion carried unanimously.

6. Authorization to Review Confidential Sales and Use Tax Information

Staff recommendation: Adopt Resolution No. 02-42 authorizing access to sales and use tax records pursuant to Revenue and Taxation Code Section 7056 and rescinding Resolution No. 93-160.

Councilmember House requested City Treasurer Lippman be authorized to have access to the information.

MOTION

Councilmember House moved and Mayor Pro Tem Kearsley seconded a motion to adopt Resolution No. 02-42, amended to include the City Treasurer, authorizing access to sales and use tax records pursuant to Revenue and Taxation Code Section 7056 and rescinding Resolution No. 93-160.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

Items 4.A. and 4.B. to be heard concurrently.

- A. Approval for Use of Supplemental Law Enforcement Services Grant (Brulte) Funds for Fiscal Year 2002-2003
Staff recommendation: Authorize the recommendations of the Sheriff's Department for use of the Brulte grant funds for the 2002-2003 fiscal year.
- B. Approval for Use of Local Law Enforcement Block Grant (LLEBG) Funds for Fiscal Year 2002-2003
Staff recommendation: 1) Authorize the recommendation of the Los Angeles County Sheriff's Department Advisory Board to continue funding of the Juvenile Intervention Team member for the 2002-2003 fiscal year; and 2) Adopt Resolution No. 02-40 designating the City Manager and the Administrative Services Director as the official representatives for the LLEBG program.

Mayor Jennings called the items and opened the public hearings.

Administrative Services Director James presented the staff report for both items.

- MOTION Councilmember House moved and Councilmember Stern seconded a motion to Staff recommendation: 1) Authorize the recommendations of the Sheriff's Department for use of the Brulte grant funds for the 2002-2003 fiscal year, 2) Authorize the recommendation of the Los Angeles County Sheriff's Department Advisory Board to continue funding of the Juvenile Intervention Team member for the 2002-2003 fiscal year; and 3) Adopt Resolution No. 02-40 designating the City Manager and the Administrative Services Director as the official representatives for the LLEBG program. The motion carried unanimously.
- C. Revisions to City's Personnel System and Updated Job Classifications
Staff recommendation: 1) Adopt Ordinance No. 239 adopting the City's Personnel System and amending the Municipal Code and 2) Adopt the revised job specifications for all classified employee positions.

Mayor Jennings called the item and opened the public hearing.

Administrative Services Director James presented the staff report.

- MOTION Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to 1) Introduce Ordinance No. 239 adopting the City's Personnel System and amending the Municipal Code and 2) Adopt the revised job specifications for all classified employee positions. The question was called and the motion carried unanimously.

- D. GENERAL PLAN AMENDMENT NO. 02-002; ZONING MAP AMENDMENT NO. 02-002; NEGATIVE DECLARATION NO. 02-003 - An Amendment to the Malibu General Plan Land Use Map from Rural Residential-20 to Rural Residential-5, and an Amendment to the Malibu Zoning Map from Rural Residential-20 to Rural Residential-5, on 68 acres Along the North side of Latigo Canyon Road, Approximately 4,000 feet North of the Latigo Canyon/Pacific Coast Highway Intersection. APPLICANT: City of Malibu; SETTLEMENT: George J. Rubens, as trustee of the George J. Rubens and Yvonne M. Rubens Family Trust, et al, and the City of Malibu; LOCATION: Northside of Latigo Canyon Road; GROSS ACREAGE: 68 acres
Staff recommendation: Continue the hearing to a date uncertain in order to allow City Staff additional time to identify a recipient for the proposed open space dedication.

Efrom Fader, Malibu Township Council, indicated support for retaining the current zoning. He presented a historical background on the property. He objected to the use of a negative declaration as prepared by staff.

MOTION Councilmember Barovsky moved and Mayor Pro Tem Kearsley seconded a motion to continue the hearing to a date uncertain in order to allow City Staff additional time to identify a recipient for the proposed open space dedication. The motion carried unanimously.

ITEM 5 OLD BUSINESS

- A. Local Coastal Plan (LCP) Update – Discussion of the Coastal Commission’s Hearing and Action regarding the Final Draft of the Malibu LCP Land Use Plan (LUP) and Local Implementation Plan (LIP) and an Opportunity for Public Input in Order for the City to Evaluate the Potential Affects of the California Coastal Commission’s Actions
Staff recommendation: After public input, continue discussion to the October 14, 2002 City Council Meeting.

City Manager Lichtig presented the staff report.

Planning Director Purvis discussed the efforts of the Planning Department regarding proceeding with the LCP.

City Manager Lichtig stated the Council previously approved a resolution to be presented to the League of California Cities which focused on the upcoming LCP. She suggested revising the resolution to have it be considered by the League. She discussed the continuing relationship with the City’s LCP consultants. She discussed the possibility of amendments to the LCP. She suggested a hiatus with the consultants which could be discussed at the next Council meeting.

Ozzie Silna deferred his time to Ms. McBurney.

Georgianna McBurney commended the Council and staff for their representation of the City at the California Coastal Commission hearings. She discussed the process of the LCP hearings. She indicated support for a referendum or litigation.

Hailey Hoffman deferred her time to Anne Hoffman.

Anne Hoffman, Director of the Recreation and Land Use Preservation Foundation, discussed structures that have now become illegal due to the LCP. She discussed the “no variance” policy related to ESHAs. She indicated opposition to the LCP and support for a referendum. She urged the Council to pursue all legal remedies.

Ted Vaill expressed disappointment at the California Coastal Commission’s decision regarding the LCP. He expressed concern regarding various portions of the LCP.

Judy Decker deferred her time to Dr. Harris.

Kay Furgurson deferred her time to Dr. Harris.

Jeff Harris thanked City staff and the Council for their efforts to make the City’s LCP reasonable. He indicated opposition to the Coastal Commission adopted LCP. He urged a city referendum to determine democratically to support or reject the plan.

Norm Haynie discussed the City’s representation at the California Coastal Commission hearings on September 12 and 13, 2002. He indicated support for staff and Council to lead the City in the LCP process.

Mayor Pro Tem Kearsley asked if the City had established a fee structure for coastal permits. City Manager Lichtig indicated a fee schedule had not yet been developed. Planning Director Purvis explained that Planning staff was currently evaluating the matter and would provide a proposed fee. City Attorney Hogin explained that the government code allowed only the reasonable cost to conduct the service to be recovered. Mayor Pro Tem Kearsley stated the Coastal Commission charged a \$500 flat fee and asked if the City would do the same. Planning Director Purvis indicated he did not intend to charge a flat fee.

Councilmember Barovsky asked about the current consultant contracts. City Manager Lichtig explained the expiration terms. Councilmember Barovsky asked about the experts required by the LCP. Planning Director Purvis explained that applicants would have to supply their own experts.

Mayor Jennings discussed the list of qualified professionals required to serve on the ERB.

Councilmember House asked what happened with projects already having coastal development permits. City Manager Lichtig explained that those projects with coastal development permits would proceed. Councilmember House asked about the proposed archeological amendments. Planning Director Purvis stated he would be discussing the proposed amendments with local archeologists.

Councilmember Stern acknowledged staff, Councilmember House, and Mayor Jennings for their work on the LCP.

Mayor Jennings discussed the proposed voter referendum. He thanked the public for attending the Coastal Commission hearings, the Council for their involvement during the LCP process, City staff, and the City's consultants. He suggested public workshops be held to explain the outcome of the LCP. He suggested the City continue to work with the possibility of establishing changes to the LCP in order to make the document livable. He suggested creating a Council ad hoc committee to deal with LCP amendments. He suggested the consultants go on hiatus temporarily and that the contracts be reviewed prior to reinstatement. He reminded the community that the City was not required to vacate Bluffs Park and suggested letters be sent to the Governor.

Councilmember House thanked everyone mentioned by Mayor Jennings.

Mayor Pro Tem Kearsley echoed the thanks to those supporting the City.

By acclamation, the Council continued the item to October 14, 2002.

ITEM 6 NEW BUSINESS

A. Employee Health Insurance Benefit

Staff recommendation: Approve staff's recommendation to change the City's benefit for employee health insurance from payment of 100% of the premium for PersCare to payment of 100% of the premium for PersChoice.

Administrative Services Director James presented the staff report.

Councilmember Barovsky indicated the Administration and Finance Subcommittee had reviewed the matter and supported the proposal.

Councilmember House thanked staff for managing a difficult item and commended staff for understanding the problem.

MOTION Mayor Pro Tem Kearsley moved and Councilmember Barovsky seconded a motion to approve staff's recommendation to change the City's benefit for employee health insurance from payment of 100% of the premium for PersCare to payment of 100% of the premium for PersChoice. The motion carried unanimously.

B. Consideration of a 9/80 Alternative Work Schedule

Staff recommendation: Consider staff's recommendation to implement a 9/80 alternative work schedule for employees and provide direction.

Administrative Services Director James presented the staff report.

Councilmember Barovsky indicated support for the proposal, particularly that City Hall hours would be extended. She stated the Administration and Finance Subcommittee had indicated support of the proposal.

Mayor Jennings asked if employees would be entitled to overtime pay for working more than 8 hours in a 24 hour period. City Attorney Hogin stated she did not think it applied to public agencies and approval could be contingent upon no cost.

MOTION Councilmember Barovsky moved and Councilmember Stern seconded a motion to approve implementation of a 9/80 alternative work schedule for employees contingent upon no cost for overtime. The motion carried unanimously.

ITEM 7 COUNCIL ITEMS

A. Resolution Supporting Ballot Measure EE

Recommendation: Adopt Resolution No. 02-44 endorsing the November 2002 Ballot Measure Known as "Measure EE," establishing dependable continuing funding for academic achievement and safety for school children in Malibu.

Mayor Pro Tem Kearsley presented the report.

MOTION Councilmember House moved and Councilmember Stern seconded a motion to adopt Resolution No. 02-44 endorsing the November 2002 Ballot Measure Known as "Measure EE," establishing dependable continuing funding for academic achievement and safety for school children in Malibu. The motion carried unanimously.

ADJOURN At 8:20 p.m., Councilmember Barovsky moved and Councilmember Stern seconded a motion to adjourn. The motion carried unanimously.

Approved and adopted by the City Council of
the City of Malibu on October 14, 2002.

JEFFREY D. JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)